IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTIETH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 403 of 2005

Between:

B.V. Sivudu, S/o. Pakkerappa, Occ:Conductor,
E.No. 407015, R/o. D.No. 19/445-D-3, Rani Nagar, Old Town, Ananthpur,
Ananthapur District.

..... PETITIONER

AND

1 The Depot Manager, APSRTC, Ananthapur Depot, Ananthapur District.
2 The Deputy Chief Traffic Manager, APSRTC, Ananthapur Division,

Ananthapur.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus or any other appropriate writ declaring the Proceedings No.02/62(144)/93-ATP dated 30-8-1994 of the first respondent and proceedings bearing No.ST/19(75)/95-DY-CTM-A dated 12-6-1997 of the 2nd respondent as illegal, arbitrary, in violation of Principles of Natural Justice and in violation of Art 14 and 21 of the Constitution of India and consequentially direct the respondents to add two annual increments to the pay of the petitioner.

Counsel for the Petitioner:S.SURENDRA KUMAR

Counsel for the Respondent Nos.1 and 2: MR.P.VINAYAKA SWAMY

The Court at the admission stage made the following Order:

The petitioner was appointed as a Conductor in the respondent-Corporation. He was issued a charge memo on 22.10.1993 and after receiving the explanation of the petitioner, final orders were passed on 30.08.1994 imposing the punishment of withholding two annual increments with cumulative effect. The petitioner questioned the order on the ground that though there is reduction of two annual increments, with cumulative effect is a major penalty and the first respondent passed the impugned order without conducting any enquiry as required under the rules. Therefore, the impugned order is illegal and it is liable to be set aside.

Learned counsel for the petitioner relied on a Judgment of the Supreme Court in **Kulwant Singh Gill v. Sate of Punjab** wherein the Supreme Court held that since the punishment imposed on the petitioner is a major punishment, the order cannot be sustained without enquiry. The petitioner, therefore, seeks to declare that the order is illegal and it is liable to be set aside.

The petitioner after receiving the adverse orders slept over the matter for a period of 11 years. There are latches on his part in asserting his right regarding this issue. Though the impugned order is liable to be set aside on account of long lapse of time, in view of the judgment of the Supreme Court in Kulwant Singh Gill's case (1 supra), I am of the view that it would be appropriate if the punishment imposed on the petitioner is treated as reduction of two annual increments without cumulative effect. The petitioner is not entitled for the difference of the amount, if any, by virtue of this order for the period from the date of the impugned order till the date of this order. But, he is entitled to get increments on notional calculation from the date of this order to which he is entitled, as he had not been imposed penalty of reduction of two annual increments without cumulative effect.

The writ petition is accordingly disposed of with the above observation. No costs.

20.01.2005

usd

To

1 The Depot Manager, APSRTC, Ananthapur Depot, Ananthapur District.
2 The Deputy Chief Traffic Manager, APSRTC, Ananthapur Division,

Ananthapur.

3 Two CD copies.